

1 40. As set forth in the First Claim, both Third Party Defendants, Western and Worthington,
2 separately contracted with Defendant/Third Party Plaintiff, Bernzomatic, to defend and indemnify
3 Bernzomatic against claims involving cylinders manufactured by each of them.

4 **RESPONSE:** Worthington admits that the agreement between Irwin Industrial Tool Company
5 and Worthington Cylinders Wisconsin, LLC and the agreement between Western and Newell Operating
6 Company speak for themselves. Worthington denies the remaining allegations in Paragraph 40 that are
7 directed at Worthington. Worthington is without knowledge or information sufficient to form a belief
8 as to the truth of the remaining allegations in Paragraph 40 and on that basis denies each and every
9 remaining allegation contained therein.
10

11 41. One purpose of the contractual provision to identify a cylinder manufacturer in the
12 absence of a serial number or other reliable information is to insure that at least one of the
13 manufacturers will take responsibility for the manufacture of the cylinder.
14

15 **RESPONSE:** Worthington admits that the agreement between Irwin Industrial Tool Company
16 and Worthington Cylinders Wisconsin, LLC and the agreement between Western and Newell Operating
17 Company speak for themselves. Worthington is without knowledge or information sufficient to form a
18 belief as to the truth of the remaining allegations in Paragraph 41 and on that basis denies each and
19 every remaining allegation contained therein.
20

21 42. The identification of the cylinder manufacturer may be necessary to enforce
22 Defendant/Third Party Plaintiff Bernzomatic's rights to a defense and indemnification as set forth in the
23 First, Second and Third Claims.

24 **RESPONSE:** Worthington is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations in Paragraph 42 and on that basis denies each and every allegation contained
26 therein.
27

28 //

FIFTH CLAIM – ESTOPPEL

43. Defendant/Third Party Plaintiff incorporates by reference the allegations in Paragraph 1 through 42 as if fully rewritten herein.

RESPONSE: Worthington refers to Paragraphs 1 through 42 of this Answer to Bernzomatic's Third Party Complaint and by this reference incorporates the same herein as though fully set forth.

44. Given the allegations in the Shalaby litigation that a Bernzomatic-branded MAPP gas cylinder caused Plaintiff's injuries, it is undisputed that either Western or Worthington manufactured the MAPP gas cylinder.

RESPONSE: Worthington denies the allegations in Paragraph 44.

45. If Plaintiffs are able to maintain an action against Defendant/Third Party Plaintiff Bernzomatic for injuries, Western and Worthington are estopped from denying responsibility for the manufacture, sale and distribution of the Bernzomatic-branded MAPP gas cylinder as it would lead to an unjust result.

RESPONSE: Worthington denies the allegations in Paragraph 45 that are directed at Worthington. Worthington is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 45 and on that basis denies each and every remaining allegation contained therein.

AFFIRMATIVE DEFENSES

**FIRST AFFIRMATIVE DEFENSE
(Insufficient Facts to Constitute a Cause of Action)**

1. As a first, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington alleges that some or all of the claims for relief fail to state facts sufficient to constitute a cause of action against Worthington.

//

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SECOND AFFIRMATIVE DEFENSE
(Negligence of Third Party Plaintiff)

2. As a second, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington alleges that Bernzomatic was careless and negligent with respect to matters alleged in the Third Party Complaint and such carelessness and negligence proximately caused and contributed to the extent of one hundred percent (100%) to the happening of the incident, loss and damages complained of, if any there were, and this contributory negligence bars or at least proportionately reduces any potential recovery.

THIRD AFFIRMATIVE DEFENSE
(Negligence of Others)

3. As a third, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington alleges that the damages Plaintiffs and Third Party Plaintiff complained of, if any there were, were proximately contributed to or caused by the carelessness, negligence, fault or defects created by the remaining parties in this action, or by other persons, corporations or business entities, unknown to Worthington at this time and were not caused in any way by Worthington or by persons for whom Worthington is legally liable.

FOURTH AFFIRMATIVE DEFENSE
(Imputed Negligence)

4. As a fourth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington alleges that the damages complained of, if any there were, were either wholly or in part, negligently or otherwise, caused by persons, firms, corporations, or entities other than Worthington, and such negligence or other conduct is either imputed to Bernzomatic, by reason of the relationship of such parties to Bernzomatic, and/or such negligence or other conduct comparatively reduces the percentage of negligence, if any, by Worthington.

//

//

FIFTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

5. As a fifth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, some or all of Bernzomatic's causes of action are barred by the applicable statute of limitations including, but not limited to, California Code of Civil Procedure, Sections 337, 339, and 343.

SIXTH AFFIRMATIVE DEFENSE
(Breach of Contract)

6. As a sixth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, if there presently exists or ever existed, any or all of the alleged rights as asserted herein by Bernzomatic, Bernzomatic cannot assert any of the contractual claims contained in the Third Party Complaint because Bernzomatic, as well as its agents, materially breached said contract or contracts.

SEVENTH AFFIRMATIVE DEFENSE
(Intervening Cause)

7. As a seventh, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, the injuries and damages of which Bernzomatic complains were proximately caused or contributed to by the acts of other persons and/or entities. These acts were an intervening, supervening and superseding cause of the damages, if any, of which Bernzomatic alleges it suffered, thereby barring Bernzomatic from any recovery against Worthington.

EIGHTH AFFIRMATIVE DEFENSE
(Waiver)

8. As an eighth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, by conduct, representations and omissions, Bernzomatic has waived, relinquished and/or abandoned any claim for relief against Worthington respecting the matters which are the subject of the Third Party Complaint.

//

NINTH AFFIRMATIVE DEFENSE
(Estoppel)

9. As a ninth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, by conduct, representations and omissions, Bernzomatic is equitably estopped to assert any claim for relief against Worthington respecting the matters which are the subject of the Third Party Complaint.

TENTH AFFIRMATIVE DEFENSE
(Unclean Hands)

10. As a tenth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, no relief may be obtained by Bernzomatic under the Third Party Complaint by reason of the doctrine of unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE
(Superseding & Intervening Cause)

11. As an eleventh, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington alleges that responsibility for any harm, injury or damages sustained by Bernzomatic was caused by acts or events which constitute a superseding and intervening cause.

TWELFTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

12. As a twelfth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington alleges that Bernzomatic and/or its representatives failed and neglected to use reasonable care to protect themselves and to minimize the losses and damages complained of, if any there were. Worthington further alleges that Plaintiffs' alleged injuries, loss, or damages, if any, were aggravated by plaintiffs' failure to use reasonable diligence to mitigate same.

THIRTEENTH AFFIRMATIVE DEFENSE
(Good Faith)

13. As a thirteenth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, Bernzomatic's causes of action are barred in whole or in part because

1 any actions taken by Worthington were fair and reasonable and were performed in good faith based on
2 all relevant facts known to Worthington at the time.

3 **FOURTEENTH AFFIRMATIVE DEFENSE**
4 **(Comparative Fault)**

5 14. As a fourteenth, separate and distinct affirmative defense to the Third Party Complaint
6 and each cause of action thereof, to the extent Bernzomatic has the right to recover any amount from
7 Worthington (which right Worthington denies), such recovery must be reduced by the amount of
8 damage attributable to Bernzomatic's own negligence and fault.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**
10 **(Offset and Reduction)**

11 15. As a fifteenth, separate and distinct affirmative defense to the Third Party Complaint and
12 each cause of action thereof, Bernzomatic should be barred from recovery in whole or part, in
13 proportion to the fault attributed to itself.

14 **SIXTEENTH AFFIRMATIVE DEFENSE**
15 **(Constructive Fraud)**

16 16. As a sixteenth, separate and distinct affirmative defense to the Third Party Complaint
17 and each cause of action thereof, at all times relevant, Bernzomatic or his agents failed, concealed
18 and/or refused to disclose certain material documents and facts to Worthington, thus misleading
19 Worthington to its extreme prejudice. Bernzomatic's or its agent's constructive fraud/unclean hands
20 serves as a bar to the entire action and as to Bernzomatic's claims as against Worthington.

21 **SEVENTEENTH AFFIRMATIVE DEFENSE**
22 **(Willful and Gross Contributory Negligence)**

23 17. As a seventeenth, separate and distinct affirmative defense to the Third Party Complaint
24 and each cause of action thereof, if there presently exists or ever existed, any or all of the alleged rights
25 as asserted herein by Bernzomatic, Bernzomatic and its agents were willfully and grossly negligent in
26 the matters alleged, thereby causing and contributing to any injury, damage or loss to Bernzomatic.
27
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EIGHTEENTH AFFIRMATIVE DEFENSE
(Partial Indemnity)

18. As an eighteenth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, if there presently exists or ever existed, any or all of the alleged rights as asserted herein by Bernzomatic, Bernzomatic was negligent or legally responsible or otherwise at fault for the damages alleged in the Third Party Complaint. Worthington therefore requests that, in the event of a finding of any liability in favor of Bernzomatic or settlement or judgment against Worthington, an apportionment of fault be made among all parties by the court or jury. Worthington further requests a judgment and declaration of partial indemnification and contribution against all other parties or persons in accordance with the apportionment of fault.

NINETEENTH AFFIRMATIVE DEFENSE
(Ratification, Consent)

19. As a nineteenth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, if there presently exists or ever existed, any or all of the alleged rights as asserted herein by Bernzomatic, such rights are unenforceable as Bernzomatic consented to or ratified the acts of Worthington after full disclosure of all pertinent facts.

TWENTIETH AFFIRMATIVE DEFENSE
(Failure of Consideration)

20. As a twentieth, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, if there presently exists or ever existed, any or all of the alleged rights as asserted herein by Bernzomatic, such rights are unenforceable as Bernzomatic's claims are barred as a result of a failure of consideration.

TWENTY-FIRST AFFIRMATIVE DEFENSE
(Assumption of Risk)

21. As a twenty-first, separate and distinct affirmative defense to the Third Party Complaint and each cause of action thereof, if there presently exists or ever existed, any or all of the alleged rights

1 as asserted herein by Bernzomatic, such rights are unenforceable as Bernzomatic assumed the risk
2 involved in the transaction.

3
4 **TWENTY-SECOND AFFIRMATIVE DEFENSE**
(Laches)

5 22. As a twenty-second, separate and affirmative defense to the Third Party Complaint and
6 each cause of action thereof, Worthington alleges that Bernzomatic's unreasonable delay in seeking to
7 implead Worthington is a basis for denying its impleader.

8
9 **TWENTY-THIRD AFFIRMATIVE DEFENSE**
(Unforeseeable Use)

10 23. As a twenty-third, separate and affirmative defense to the Third Party Complaint and
11 each cause of action thereof, Worthington alleges that any alleged defect in any product allegedly
12 supplied by Worthington was caused by the unauthorized, unreasonable, and unforeseeable use of the
13 product by plaintiffs or other individuals, and accordingly, Worthington has no liability with respect to
14 the same.

15
16 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**
(Failure to Comply with Instructions)

17 24. As a twenty-fourth, separate and affirmative defense to the Third Party Complaint and
18 each cause of action thereof, Worthington alleges that Plaintiffs failed to comply with the written and
19 oral instructions relating to use of the product and this failure caused the alleged damages, if any,
20 suffered by plaintiffs.

21
22 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**
(Assumption of Risk by Plaintiffs)

23 25. As a twenty-fifth, separate and affirmative defense to the Third Party Complaint and
24 each cause of action thereof, Worthington alleges that Plaintiffs are barred from recovery in that they
25 were fully informed of the risk and possible consequences of the use of the product. Plaintiffs had full
26 knowledge of, and accepted and assumed any and all risks and possible adverse effects related to the
27
28

1 use of the product described in plaintiffs' Complaint and the circumstances surrounding the use of the
2 product.

3 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**
4 **(Altered Product)**

5 26. As a twenty-sixth, separate and affirmative defense to the Third Party Complaint and
6 each cause of action thereof, Worthington alleges the product which is the subject of this action may
7 have been, without Worthington's knowledge or approval, redesigned, modified and/or altered in such a
8 way as to create the alleged defect which resulted in the injuries and damages claimed by Plaintiffs.

9 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**
10 **(State of the Art)**

11 27. As a twenty-seventh, separate and affirmative defense to the Third Party Complaint and
12 each cause of action thereof, Worthington alleges that that the products at issue met the standards of the
13 state of the art and state of scientific knowledge at the time of its manufacture and distribution to the
14 extent of available scientific and technological knowledge then available. Further, at all relevant times,
15 Worthington acted in conformity with the existing state of knowledge, common and accepted
16 procedures, and state of the art in the manufacture of the products.

17 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**
18 **(Negligence of Plaintiffs)**

19 28. As a twenty-eighth, separate and distinct affirmative defense to the Third Party
20 Complaint and each cause of action thereof, Worthington alleges that Plaintiffs were careless and
21 negligent with respect to matters alleged in the Complaint and such carelessness and negligence
22 proximately caused and contributed to the extent of one hundred percent (100%) to the happening of the
23 incident, loss and damages complained of, if any there were, and this contributory negligence bars or at
24 least proportionately reduces any potential recovery.

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TWENTY-NINTH AFFIRMATIVE DEFENSE
(Other Defenses)

29. As a twenty-ninth, separate and affirmative defense to the Third Party Complaint and each cause of action thereof, Worthington reserves all rights to supplement this Answer with additional denials and/or affirmative defenses, as further facts are discovered in this litigation.

WHEREFORE, WORTHINGTON INDUSTRIES, INC., having fully responded to Bernzomatic's Third Party Complaint against it, prays that it be henceforth discharged and that all costs be cast upon the Bernzomatic.

Dated: August 16, 2007

BOWLES & Verna LLP

By: 

Richard A. Ergo
Cathleen S. Huang
Attorneys for Third Party Defendant
WORTHINGTON INDUSTRIES, INC.

PROOF OF SERVICE

(Shalaby v. Irwin – USDC, Northern District of California, Case No: C 06 7026 MJJ)

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years, and not a party to, or interested in the within entitled action. I am an employee of BOWLES & VERNA LLP, and my business address is 2121 N. California Blvd., Suite 875, Walnut Creek, California 94596.

On August 16, 2007, I served the following document(s):

WORTHINGTON INDUSTRIES, INC.'S ANSWER TO BERNOMATIC'S THIRD PARTY COMPLAINT

on the following parties in this action addressed as follows:

Attorneys for Plaintiffs

Mark D. Epstein
 Alborg, Veiluva & Epstein LLP
 200 Pringle Avenue, Suite 410
 Walnut Creek, CA 94596
 Tel: (925) 939-9880
 Fax: (925) 939-9915

Attorneys for Defendant and Third Party Plaintiff

Bernzomatic and Defendant The Home Depot
 J. Phillip Moorhead
 Keller, Price & Moorhead
 229 Avenue I, 2nd Floor
 Redondo Beach, CA 90277-5600
 Tel: (310) 540-1332

XXXX *(BY MAIL) I caused each such envelope, with postage thereon fully paid, to be placed in the United States mail at Walnut Creek, California. I am readily familiar with the business practice for collection and processing of mail in this office. That in the ordinary course of business said document(s) would be deposited with the U.S. Postal Service in Walnut Creek on that same day. I understand that service shall be presumed invalid upon motion of a party served if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained on this affidavit.*

— *(BY PERSONAL SERVICE) I delivered each such envelope by hand to each addressee above.*

— *(BY OVERNIGHT DELIVERY) I caused each envelope, with delivery fees provided for, to be deposited in a box regularly maintained by UPS/FEDERAL EXPRESS. I am readily familiar with Bowles & Verna's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Bowles & Verna's business practice the document(s) described above will be deposited in a box or other facility regularly maintained by UPS/FEDERAL EXPRESS or delivered to an authorized courier or driver authorized by UPS/FEDERAL EXPRESS to receive documents on the same date that it is placed at Bowles & Verna for collection.*

— *(BY FACSIMILE) By use of facsimile machine number (925) 935-0371 or (925) 256-1755, I served a copy of the within document(s) on the above interested parties at the facsimile numbers listed above. The transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine.*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. Executed on August 16, 2007, at Walnut Creek, California.


 DONNA WITHROW

FILED

NOV 9 2006
 RICHARD W. WIERING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Joshua S. Goodman – SB # 116576
 Pavan L. Rosati – SB # 146171
 Jenkins Goodman Neuman & Hamilton LLP
 417 Montgomery Street, 10th Floor
 San Francisco, CA 94104
 Telephone: (415) 705-0400
 Facsimile: (415) 705-0411

Attorneys for Defendants HOME DEPOT U.S.A., INC., NEWELL RUBBERMAID, INC.
 and RUBBERMAID, INC.

E-Filing

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CW

ANDREW SHALABY, an individual, and
 SONIA DUNN-RUIZ, an individual,

Plaintiffs,
 vs.

NEWELL RUBBERMAID, INC., a
 Delaware corporation, THE HOME
 DEPOT, INC., a Delaware corporation and
 DOES 1 - 100,

Defendants.

Case No. **IC 06 7026**
 CERTIFICATE OF SERVICE OF
 NOTICE TO ADVERSE PARTY OF
 REMOVAL TO FEDERAL COURT

BY FAX

I, Nikki Sands, certify and declare as follows:

I am over the age of 18 years and not a party to this action. My business address is
 417 Montgomery Street, 10th Floor, San Francisco, CA 94104, which is located in the
 City, County and State where the mailing described below took place.

On November 9, 2006, I deposited in the United States Mail at San Francisco,
 California, a copy of the Notice to Adverse Party of Removal to Federal Court dated
 November 9, 2006, a copy of which is attached to this Certificate.

I declare under penalty of perjury under the laws of the State of California that the

Jenkins Goodman
 Neuman & Hamilton
 LLP
 417 Montgomery St.
 10th Floor
 San Francisco, CA
 94104
 (415) 705-0400

1 foregoing is true and correct.

2 Executed this 9th day of November, 2006, at San Francisco, California.

3

4

N. Sands
Nikki Sands

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Joshua S. Goodman, SB # 116576
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Attorneys for Defendants HOME DEPOT U.S.A., INC., NEWELL RUBBERMAID, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

ANDREW SHALABY, an individual, and)	Case No.: RG06292670
SONIA DUNN-RUIZ, an individual,)	
Plaintiffs,)	NOTICE TO ADVERSE PARTY AND
vs.)	STATE COURT OF REMOVAL OF
)	CIVIL ACTION TO FEDERAL COURT
NEWELL RUBBERMAID, INC., et al.,)	
Defendants.)	

TO PLAINTIFFS, ANDREW SHALABY AND SONIA DUNN-RUIZ, AND TO
THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the
United States District Court for the Northern District of California, on November 9, 2006.
A copy of said Notice of Removal is attached to this Notice, and is served and filed
herewith.

JENKINS GOODMAN NEUMAN & HAMILTON

DATE: November 9, 2006

Pavan L. Rosati FOR
Joshua S. Goodman, Attorneys for
Defendants HOME DEPOT U.S.A, INC., et al.

Jenkins Goodman
Neuman & Hamilton
LLP
417 Montgomery St.
10th Floor
San Francisco, CA
94104
(415) 705-0400

PROOF OF SERVICE

CASE NAME: *Shalaby v. Home Depot, et al.*

CASE NUMBER:

DATE OF SERVICE: November 9, 2006

DESCRIPTION OF DOCUMENTS SERVED:

**CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY
OF REMOVAL TO FEDERAL COURT**

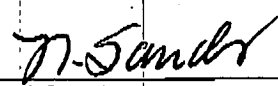
SERVED ON THE FOLLOWING:

Mark D. Epstein, Esq.
Alborn, Veiluva & Epstein LLP
200 Pringle Avenue, Suite 410
Walnut Creek, CA 94596
925.939.9915 fax

J. Phillip Moorhead, Esq.
Keller, Price & Moorhead
229 Avenue I, Second Floor
Redondo Beach, CA 90277-5600
310.540.8480 fax

I am over the age of 18 years and not a party to or interested in the above-named case. I am an employee of Jenkins Goodman Neuman & Hamilton LLP, and my business address is 417 Montgomery Street, 10th Floor, San Francisco, CA 94104. On the date stated above, I served a true copy of the document(s) described above, by mail, by placing said document(s) in an envelope, addressed as shown above for collection and mailing on the date shown above following the ordinary business practices of Jenkins Goodman Neuman & Hamilton LLP. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, said document(s) would be deposited with the United States Postal Service at a post box in San Francisco, California on the same day (at approximately 5:00 P.M.) with postage thereon fully prepaid for first class mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the date stated above.



Nikki Sands

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Jenkins Goodman
Neuman & Hamilton
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417 Montgomery St.
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San Francisco, CA
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FILED

NOV - 9/2006

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Joshua S. Goodman, SB # 116576
2 Pavan L. Rosati, SB # 146171
3 Jenkins Goodman Neuman & Hamilton LLP
4 417 Montgomery Street, 10th Floor
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5 Attorneys for Defendants HOME DEPOT U.S.A., INC., NEWELL RUBBERMAID, INC.,
and RUBBERMAID, INC.

E-Filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

C 06 7026

11 ANDREW SHALABY, an individual, and)
12 SONIA DUNN-RUIZ, an individual,)

13 Plaintiffs,
14 vs.

15 NEWELL RUBBERMAID, INC., a)
16 Delaware corporation, THE HOME)
17 DEPOT, INC., a Delaware corporation and)
DOES 1 - 100,)

18 Defendants.

Case No.:

DEMAND FOR JURY TRIAL

19 Defendants Home Depot U.S.A., Inc., Newell Rubbermaid, Inc. and Rubbermaid
20 Inc. hereby demand trial by jury in this action.

21 DATED: November 9, 2006 JENKINS GOODMAN NEUMAN & HAMILTON
22 LLP

23 Pavan L. Rosati FOR
24 Joshua S. Goodman, Attorneys for
25 Defendants, HOME DEPOT U.S.A., INC.,
26 NEWELL RUBBERMAID, INC. and
RUBBERMAID INC.

DEMAND FOR JURY TRIAL

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Neuman & Hamilton
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San Francisco, CA
94104
(415) 705-0400

CW 3V
BY FAX

PROOF OF SERVICE

CASE NAME: *Shalaby v. Home Depot, et al.*

CASE NUMBER:

DATE OF SERVICE: November 9, 2006

DESCRIPTION OF DOCUMENTS SERVED:

**NOTICE TO ADVERSE PARTY AND STATE COURT OF
REMOVAL OF CIVIL ACTION TO FEDERAL COURT; NOTICE OF
REMOVAL OF ACTION UNDER 28 U.S.C. §1441(b) (DIVERSITY);
DEMAND FOR JURY TRIAL**


SERVED ON THE FOLLOWING:

Mark D. Epstein, Esq.
Alborn, Veiluva & Epstein LLP
200 Pringle Avenue, Suite 410
Walnut Creek, CA 94596
925.939.9915 fax

J. Phillip Moorhead, Esq.
Keller, Price & Moorhead
229 Avenue I, Second Floor
Redondo Beach, CA 90277-5600
310.540.8480 fax

I am over the age of 18 years and not a party to or interested in the above-named case. I am an employee of Jenkins Goodman Neuman & Hamilton LLP, and my business address is 417 Montgomery Street, 10th Floor, San Francisco, CA 94104. On the date stated above, I served a true copy of the document(s) described above, by mail, by placing said document(s) in an envelope, addressed as shown above for collection and mailing on the date shown above following the ordinary business practices of Jenkins Goodman Neuman & Hamilton LLP. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, said document(s) would be deposited with the United States Postal Service at a post box in San Francisco, California on the same day (at approximately 5:00 P.M.) with postage thereon fully prepaid for first class mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the date stated above.


Nikki Sands

f:\docs\jsg\shalaby v. home depot\removal docs\pos.doc

Jenkins Goodman
Neuman & Hamilton
LLP
417 Montgomery St.
10th Floor
San Francisco, CA
94104
(415) 705-0400

PROOF OF SERVICE

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANDREW SHALABY,

Plaintiff (s),

v.

NEWELL RUBBERMAID INC,
Defendant(s).

No. C 06-07026 CW

ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**E-Filing**FILED
06 NOV -9 PM 3:01
RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IT IS HEREBY ORDERED that this action is assigned to the Honorable Claudia Wilken. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule set forth below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at www.adr.cand.uscourts.gov. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

CASE SCHEDULE -ADR MULTI-OPTION PROGRAM

Date	Event	Governing Rule
11/9/2006	Notice of removal filed	
21 days before CMC * 1/26/2007	Last day to: <ul style="list-style-type: none"> meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan file ADR Certification signed by Parties and Counsel (form available at www.adr.cand.uscourts.gov) file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (forms available at www.adr.cand.uscourts.gov) 	FRCivP 26(f) & ADR L.R.3-5 Civil L.R. 16-8 (b) & ADR L.R. 3-5(b) Civil L.R. 16-8 (c) & ADR L.R. 3-5(b)& (c)
7 days before CMC * 2/9/2007	Last day to complete initial disclosures or state objection in Rule 26(f) Report, file Case Management Statement (form available at www.cand.uscourts.gov), and file Rule 26(f) Report	FRCivP 26(a) (1) & Civil L.R. 16-9
2/16/2007	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom 2, Oakland at 1:30 PM	Civil L.R.16-10

* If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4

5 No. _____

6 ORDER SETTING CASE MANAGEMENT CONFERENCE
7

8 The above matter having been assigned to Judge Wilken,
9 IT IS HEREBY ORDERED, pursuant to Rule 16, Federal
10 Rules of Civil Procedure, and Civil Local Rule 16, that a
11 case management conference will be held before Judge Wilken
12 on Friday, _____, at 1:30 p.m., in
13 Courtroom 2, 4th Floor, 1301 Clay Street, Oakland,
14 California.

15 Lead trial counsel shall meet and confer not less than
16 thirty (30) days in advance of the conference and shall file
17 a joint case management statement in the form contained in
18 the Civil Local rules (copy attached) not less than ten (10)
19 days in advance of the conference.
20

21 If the conference is inconveniently scheduled, it may
22 be rescheduled by stipulation and order to another date or
23 time convenient to the Court's calendar.

24 At the conclusion of the conference, an order will be
25 entered setting dates either for a further case management
26 conference, or for close of discovery, pretrial conference,
27 and trial. Other orders regulating and controlling future
28 proceedings may be entered.

1 Plaintiff(s) shall serve copies of this Order at once
2 on all parties to this action, and on any parties
3 subsequently joined, in accordance with Fed. R. Civ. P. 4
4 and 5. Following service, Plaintiff(s) shall file a
5 certificate of service with the Clerk of this Court.
6

7 FAILURE TO COMPLY WITH THIS ORDER may be deemed
8 sufficient grounds for dismissal of this cause, default or
9 other appropriate sanctions. See Fed. R. Civ. P. 16(f).

10 See attached for standard procedures.

11 IT IS SO ORDERED.

12
13 
14 CLAUDIA WILKEN
15 UNITED STATES DISTRICT JUDGE
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United States District Court
For the Northern District of California

NOTICE

Criminal Law and Motion calendar is conducted on Mondays at 2:00 p.m. Civil Law and Motion calendar is conducted on Fridays at 10:00 a.m. Case Management Conferences and Pretrial Conferences are conducted on Fridays at 1:30 p.m. Order of call is determined by the Court. Counsel need not reserve a hearing date for civil motions; however, counsel are advised to check the legal newspapers or the Court's website at www.cand.uscourts.gov for unavailable dates.

Motions for Summary Judgment: All issues shall be contained within one motion and shall conform with Civil L.R. 7-2. Separate statements of undisputed facts in support of or in opposition to motions for summary judgment will not be considered by the Court. (See Civil Local Rule 56-2(a)). All briefing on motions for summary judgment must be included in the memoranda of points and authorities in support of, opposition to, or reply to the motion, and must comply with the page limits of Civil Local Rule 7-4. The memoranda should include a statement of facts supported by citations to the declarations filed with respect to the motion. Cross or counter-motions shall be contained within the opposition to any motion for summary judgment and shall conform with Civil L.R. 7-3. The Court may, *sua sponte* or pursuant to a motion under Civil L.R. 6-3, reschedule the hearing so as to give a moving party time to file a surreply to the cross or counter-motion.

All DISCOVERY MOTIONS are referred to a Magistrate Judge to be heard and considered at the convenience of his/her calendar. All such matters shall be noticed by the moving party for hearing on the assigned Magistrate Judge's regular law and motion calendar, or pursuant to that Judge's procedures.

In all "E-Filing" cases when filing papers in connection with any motion for determination by the judge, the parties shall, in addition to filing papers electronically, lodge with chambers a printed copy of the papers by the close of the next court day following the day the papers are filed electronically. **These printed copies shall be marked "Chambers Copy" and shall be submitted to the Clerk's Office, in an envelope clearly marked with the judge's name, case number and "E-Filing Chambers Copy."** Parties shall not file a paper copy of any document with the Clerk's Office that has already been filed electronically.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff(s),

v.

Defendant(s).

CASE NO.
JOINT CASE MANAGEMENT STATEMENT
AND PROPOSED ORDER

The parties to the above-entitled action jointly submit this Case Management Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this case.

DESCRIPTION OF THE CASE

1. A brief description of the events underlying the action:
2. The principal factual issues which the parties dispute:
3. The principal legal issues which the parties dispute:
4. The other factual issues *[e.g. service of process, personal jurisdiction, subject matter jurisdiction or venue]* which remain unresolved for the reason stated below and how the parties propose to resolve those issues:
5. The parties which have not been served and the reasons:
6. The additional parties which the below-specified parties intend to join and the intended time frame for such joinder:

ALTERNATIVE DISPUTE RESOLUTION

7. The following parties consent to assignment of this case to a United States Magistrate Judge for *[court or jury]* trial:
8. The parties have already been assigned *[or the parties have agreed]* to the following court ADR process *[e.g. Nonbinding Arbitration, Early Neutral Evaluation, Mediation, Early Settlement with a Magistrate Judge]* *[State the expected or scheduled date for the ADR session]:*
9. The ADR process to which the parties jointly request *[or a party separately requests]* referral:

DISCLOSURES

10. The parties certify that they have made the following disclosures *[list disclosures of persons, documents, damage computations and insurance agreements]:*

DISCOVERY

11. The parties agree to the following discovery plan *[Describe the plan e.g., any limitation on the number, duration or subject matter for various kinds of discovery; discovery from experts; deadlines for completing discovery]*:

TRIAL SCHEDULE

12. The parties request a trial date as follows:

13. The parties expect that the trial will last for the following number of days:

SIGNATURE AND CERTIFICATION BY PARTIES AND LEAD TRIAL COUNSEL

Pursuant to Civil L.R. 16-12, each of the undersigned certifies that he or she has read the brochure entitled "Dispute Resolution Procedures in the Northern District of California," discussed the available dispute resolution options provided by the court and private entities and has considered whether this case might benefit from any of the available dispute resolution options.

Dated: _____

[Typed name and signature of each party and lead trial counsel]

Dated: _____

[Typed name and signature of each party and lead trial counsel]

CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders: *[The Court may wish to make additional orders, such as:*

- a. Referral of the parties to court or private ADR process;
- b. Schedule a further Case Management Conference;
- c. Schedule the time and content of supplemental disclosures;
- d. Specially set motions;
- e. Impose limitations on disclosure or discovery;
- f. Set time for disclosure of identity, background and opinions of experts;
- g. Set deadlines for completing fact and expert discovery;
- h. Set time for parties to meet and confer regarding pretrial submissions;
- i. Set deadline for hearing motions directed to the merits of the case;
- j. Set deadline for submission of pretrial material;
- k. Set date and time for pretrial conference;
- l. Set a date and time for trial.]

Dated: _____

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff(s),
v.
Defendant(s).

CASE NO.
SUPPLEMENTAL CASE MANAGEMENT
STATEMENT AND PROPOSED ORDER

Pursuant to Civil L.R. 16-14(d), the parties to the above-entitled action certify that they met and conferred at least 10 days prior to the subsequent case management conference scheduled in this case and jointly submit this Supplemental Case Management Statement and Proposed Order and request the Court to adopt it as a Supplemental Case Management Order in this case.

DESCRIPTION OF SUBSEQUENT CASE DEVELOPMENTS

1. The following progress or changes have occurred since the last case management statement filed by the parties:
2. The parties jointly request (or a party separately requests) the Court to make the following Supplemental Case Management Order:

Dated: _____
[Typed name and signature of counsel]

Dated: _____
[Typed name and signature of counsel]

SUPPLEMENTAL CASE MANAGEMENT ORDER

The Supplemental Case Management Statement and Proposed Order is hereby adopted by the Court as a Supplemental Case Management Order for the case and the parties are ordered to comply with this Order. *[In addition, the Court orders as follows:]*

Dated: _____
UNITED STATES DISTRICT JUDGE

FILED

NOV 9 2006

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Joshua S. Goodman, SB # 116576
Pavan L. Rosati, SB # 146171
Jenkins Goodman Neuman & Hamilton LLP
417 Montgomery Street, 10th Floor
San Francisco, CA 94104
Telephone: (415) 705-0400
Facsimile: (415) 705-0411

Attorneys for Defendants HOME DEPOT U.S.A., INC., NEWELL RUBBERMAID, INC.
and RUBBERMAID, INC.

E-Filing

CW

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IC 06 7026

ANDREW SHALABY, an individual, and) Case No.:
SONIA DUNN-RUIZ, an individual,)

Plaintiffs,
vs.

NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(b)
(DIVERSITY)

NEWELL RUBBERMAID, INC., a)
Delaware corporation, THE HOME)
DEPOT, INC., a Delaware corporation and)
DOES 1 - 100,)

Defendants.

BY FAX

TO THE CLERK IN THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants Home Depot U.S.A., Inc., Newell
Rubbermaid, Inc., and Rubbermaid Inc. hereby remove to this Court the state court action
described below.

1. On October 10, 2006, an action was commenced in Superior Court of the
State of California, for the County of Alameda, entitled Andrew Shalaby and Sonia Dunn-
Ruiz, Plaintiffs v. Newell Rubbermaid, Inc. a Delaware Corporation, The Home Depot,
Inc., a Delaware Corporation, Defendants, as Case No. RG06292670. A copy of the

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Neuman & Hamilton
LLP
417 Montgomery St.
10th Floor
San Francisco, CA
94104
(415) 705-0400

1 Complaint is attached hereto as Exhibit A.

2 2. The first date upon which any of the Defendants received a copy of said
3 complaint was on October 13, 2006, when service of the summons and complaint was
4 effected on defendant Home Depot U.S.A., Inc. by personal service on Corporation
5 Service Company. A letter and a copy of the summons and complaint were served by
6 certified mail on the registered agent for service of process for Newell Rubbermaid, Inc. on
7 October 16, 2006. The first date upon which Defendant Rubbermaid Inc. received a copy
8 of the Doe 1 Amendment to complaint was October 20, 2006 when it was served upon a
9 Rubbermaid Inc. representative authorized to accept service of process. Attached hereto as
10 Exhibits B and C, respectively, are copies of the Summons and of the Proof of Service on
11 Newell Rubbermaid, Inc. Attached hereto as Exhibits D and E, respectively, are copies of
12 the Summons and of the Proof of Service on Home Depot U.S.A., Inc.. Attached hereto as
13 Exhibits F and G, respectively, are the Doe 1 Amendment to Complaint and the Proof of
14 Service on Rubbermaid Inc. Defendant Home Depot U.S.A., Inc. answered the complaint
15 on November 8, 2006. Defendants Newell Rubbermaid, Inc. and Rubbermaid, Inc.
16 answered the complaint on November 9, 2006. Attached as Exhibit H are true and correct
17 copies of Defendants' answers to complaint. Exhibits A through H constitute true and
18 correct copies of the pleadings in the State Court's file served upon or by Defendants.

19 3. This action is a civil action of which this Court has original jurisdiction
20 under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendants
21 pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between
22 citizens of different states and the matter in controversy exceeds the sum of \$75,000.00,
23 exclusive of interest and costs because:

24 (a) At page 3, paragraph 14 of the Complaint, Plaintiffs pray for
25 damages, "not less than \$5 million,"

26 (b) Plaintiff Andrew Shalaby contends that as a result of the subject

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1 accident, he sustained serious burns to his face and extremities. Medical costs to date total
2 approximately \$350,000.00. Future medical costs are estimated to be \$200,000.00.
3 Plaintiff Andrew Shalaby is also claiming lost income in the amount of \$150,000.00 and a
4 future loss of earnings of approximately \$300,000.00. Plaintiff Sonia Dunn-Ruiz is
5 claiming general damages in the amount of \$500,000.00 for negligent infliction of
6 emotional distress.

7 4. The complaint alleges Plaintiffs Andrew Shalaby and Sonia Dunn-Ruiz
8 were, and still are, citizens of the State of California. The complaint alleges that defendants
9 Newell Rubbermaid, Inc. and Home Depot U.S.A., Inc. are Delaware corporations.
10 Defendant, Home Depot U.S.A., Inc., is a Delaware corporation with its principal place of
11 business in the State of Georgia. Defendant, Newell Rubbermaid, Inc., is a Delaware
12 corporation with its principal place of business in the State of Illinois. Defendant,
13 Rubbermaid Inc., was added to the complaint as Doe 1. Rubbermaid Inc. is an Ohio
14 corporation with its principal place of business in the State of Georgia.

15 DATED: November 9, 2006

JENKINS GOODMAN NEUMAN & HAMILTON
16 LLP

17 Joshua S. Goodman for

18 Joshua S. Goodman, Attorneys for
19 Defendants, HOME DEPOT U.S.A., INC.,
20 NEWELL RUBBERMAID, INC. and
21 RUBBERMAID INC.
22
23
24

25 Jenkins Goodman
Neuman & Hamilton
LLP
417 Montgomery St.
10th Floor
San Francisco, CA
94104
26 (415) 705-0400

OCT 16 2006
982.1(1)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address):

MICHAEL J. VEILUVA (SBN 100419)

MARK. D. EPSTEIN (SBN 168221)

ALBORG, VEILUVA & EPSTEIN LLP

200 Pringle Ave., Suite 410

Walnut Creek CA 94596

TELEPHONE NO: (925) 939-9880

FAX NO. (Optional): (925) 939-9915

E-MAIL ADDRESS (Optional): mepstein@avelaw.com

ATTORNEY FOR (Name): Plaintiffs ANDREW SHALABY and SONIA DUNN-RUIZ

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS: 1225 Fallon Street

MAILING ADDRESS:

CITY AND ZIP CODE: Oakland 94612

BRANCH NAME: Northern Division

PLAINTIFF: ANDREW SHALABY, an individual, and SONIA DUNN-RUIZ, an individual By

DEFENDANT: NEWELL RUBBERMAID, INC., a Delaware corporation, THE HOME DEPOT, INC., a Delaware corporation,

☒ DOES 1 TO 100

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

☐ AMENDED (Number):

Type (check all that apply):

☐ MOTOR VEHICLE

☒ OTHER (specify): Products Liability

☐ Property Damage

☐ Wrongful Death

☒ Personal Injury

☐ Other Damages (specify):

Jurisdiction (check all that apply):

☐ ACTION IS A LIMITED CIVIL CASE

Amount demanded

☐ does not exceed \$10,000

☐ exceeds \$10,000, but does not exceed \$25,000

☒ ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)

☐ ACTION IS RECLASSIFIED by this amended complaint

☐ from limited to unlimited

☐ from unlimited to limited

CASE NUMBER:

RG06292670

1. Plaintiff (name or names): ANDREW SHALABY and SONIA DUNN-RUIZ

alleges causes of action against defendant (name or names): NEWELL RUBBERMAID and THE HOME DEPOT INC.

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

(1) ☐ a corporation qualified to do business in California

(2) ☐ an unincorporated entity (describe):

(3) ☐ a public entity (describe):

(4) ☐ a minor ☐ an adult

(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed

(b) ☐ other (specify):

(5) ☐ other (specify):

b. ☐ except plaintiff (name):

(1) ☐ a corporation qualified to do business in California

(2) ☐ an unincorporated entity (describe):

(3) ☐ a public entity (describe):

(4) ☐ a minor ☐ an adult

(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed

(b) ☐ other (specify):

(5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

982.1(1)

SHORT TITLE: SHALABY v. NEWELL RUBBERMAID

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): NEWELL RUBBERMAID

- (1) ☐ a business organization, form unknown
 (2) ☒ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

b. ☒ except defendant (name): THE HOME DEPOT, INC.

- (1) ☐ a business organization, form unknown
 (2) ☒ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

c. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

d. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1-50 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 51-100 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined pursuant to Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a. ☐ at least one defendant now resides in its jurisdictional area.
 b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
 c. ☐ injury to person or damage to personal property occurred in its jurisdictional area.
 d. ☒ other (specify): Defendants are foreign corporations doing business in the county, and which have not designated a principal place of business with the California Secretary of State (CCP 395).

9. ☐ Plaintiff is required to comply with a claims statute, and:

- a. ☐ has complied with applicable claims statutes, or
 b. ☐ is excused from complying because (specify):

982.1(1)

SHORT TITLE: SHALABY V. NEWELL RUBBERMAID

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☐ Intentional Tort
- d. ☒ Products Liability
- e. ☐ Premises Liability
- f. ☒ Other (specify): Negligent Infliction of Emotional Distress

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☒ loss of earning capacity
- g. ☒ other damage (specify): To be established according to proof.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a. ☐ listed in Attachment 12.
 - b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
 - (2) ☐ punitive damages
- The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):
- (1) ☒ according to proof
 - (2) ☒ in the amount of: \$ not less than \$5 million

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):
- 5.

Date: October 10, 2006

Mark D. Epstein
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: SHALABY v. NEWELL RUBBERMAID	CASE NUMBER:
-------------------------------------------	--------------

FIRST (number) CAUSE OF ACTION - Products Liability Page Four

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff (name): ANDREW W. SHALABY and SONIA DUNN-RUIZ

Prod.L-1. On or about (date): April 21, 2006 plaintiff was injured by the following product:
A Bernzomatic brand MAPP Gas torch manufactured and distributed for sale by defendant Newell Rubbermaid, and purchased from defendant Home Depot. Plaintiff SHALABY was a purchaser and user of the product; plaintiff DUNN-RUIZ, his wife, was a bystander who witnessed the incident.

Prod.L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being

☒ used in the manner intended by the defendants.

☒ used in a manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod.L-3. Plaintiff was a

☒ purchaser of the product.

☒ user of the product.

☒ bystander to the use of the product.

☐ other (specify):

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod.L-4. ☒ Count One-Strict liability of the following defendants who

a. ☒ manufactured or assembled the product (names): defendant NEWELL RUBBERMAID

☒ Does 51 to 60

b. ☐ designed and manufactured component parts supplied to the manufacturer (names):

☐ Does to

c. ☒ sold the product to the public (names): defendant THE HOME DEPOT, INC.

☒ Does 61 to 70

Prod.L-5. ☒ Count Two-Negligence of the following defendants who owed a duty to plaintiff (names):
defendant NEWELL RUBBERMAID

☒ Does 1 to 100

Prod.L-6. ☒ Count Three-Breach of warranty by the following defendants (names): defendants NEWELL RUBBERMAID and THE HOME DEPOT INC.

☒ Does 51 to 100

a. ☒ who breached an implied warranty

b. ☒ who breached an express warranty which was

☒ written ☐ oral

Prod.L-7. ☒ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are

☐ listed in Attachment-Prod.L-7 ☒ as follows: defendant NEWELL RUBBERMAID and defendant THE HOME DEPOT INC. failed to adequately warn or instruct plaintiffs about the product's dangerous characteristics and risks of injury.

SHORT TITLE: SHALABY v. NEWELL-RUBBERMAID	CASE NUMBER:
----------------------------------------------	--------------

SECOND CAUSE OF ACTION - General Negligence Page Five

(number)
ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): ANDREW SHALABY and SONIA DUNN-RUIZ

alleges that defendant (name): defendant NEWELL RUBBERMAID and HOME DEPOT, INC.

☒ Does 51 to 60

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff
on (date): April 21, 2006
at (place): San Diego County

(description of reasons for liability):

Negligent Infliction of Emotional Distress

a. Defendants Newell Rubbermaid and Home Depot were negligent in designing, manufacturing, distributing and selling the defective Bernzomatic MAPP Gas torch that caused Mr. Shalaby's injuries.

b. Ms. Dunn-Ruiz was present at the scene of the April 21, 2006 incident involving the explosion of the torch in Mr. Shalaby's hands, when it occurred, and was aware at the time that her husband was being injured.

c. Both Shalaby and Dunn-Ruiz suffered serious emotional distress as a result of observing and experiencing the incident, including mental suffering, grief, anguish, anxiety, depression, worry, and shock.

d. The negligence of Newell Rubbermaid and Home Depot in designing, manufacturing, distributing and selling the defective torch was a substantial factor in causing Plaintiffs' serious emotional distress.

OCT 16 2006

CM-010

FOR COURT USE ONLY

ENDORSED
FILED
ALAMEDA COUNTY

OCT 10 2006

By LAURA LUONG

CASE NUMBER 06292670

JUDGE:

DEPT:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, S. number, and address):
 Mark D. Epstein (SBN 168221)
 Michael J. Veiluva (SBN 100419)
 Alborg, Veiluva & Epstein LLP
 200 Pringle Avenue, Suite 410
 Walnut Creek, CA 94596
 TELEPHONE NO.: (925) 939-9880 FAX NO.: (925) 939-9915
 ATTORNEY FOR (Name): Plaintiffs Andrew Shalaby and Sonia Dunn-Ruiz
 SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda
 STREET ADDRESS: 1225 Fallon Street
 MAILING ADDRESS:
 CITY AND ZIP CODE: Oakland 94612
 BRANCH NAME: Northern Division
 CASE NAME: Andrew Shalaby et al. v. Newell Rubbermaid, Inc. et al.

CIVIL CASE COVER SHEET
☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)
Complex Case Designation
☐ Counter ☐ Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

2. This case ☐ is ☒ is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Type of remedies sought (check all that apply):
- | | | |
|-------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------|
| a. <input checked="" type="checkbox"/> monetary | b. <input type="checkbox"/> nonmonetary; declaratory or injunctive relief | c. <input type="checkbox"/> punitive |
|-------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------|

4. Number of causes of action (specify): 2

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015).

Date: October 9, 2006

Mark D. Epstein (SBN 168221)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**SUMMONS
 (CITACION JUDICIAL)**

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

Newell Rubbermaid, Inc., a Delaware corporation, The Home Depot, Inc., a Delaware corporation, and Does 1-100

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Andrew Shalaby, an individual, and Sonia Dunn-Ruiz, an individual

OCT 16 2006

SUM-100

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

**ENDORSED
 FILED
 ALAMEDA COUNTY**

OCT 10 2006

By

LAURA LUONG

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
 (El nombre y dirección de la corte es):
 Alameda County Superior Court
 1225 Fallon Street
 Oakland, CA 94612

CASE NUMBER:
 (Número del Caso): **RG 06292670**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
 (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
 Mark D. Epstein (925) 939-9880 (925) 939-9915
 Alborg, Veiluva & Epstein LLP
 200 Pringle Avenue, Suite 410
 Walnut Creek, CA 94596

DATE:
 (Fecha) **OCT 10 2006**

Clerk, by **LAURA LUONG**, Deputy
 (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
 (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.80 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

[SEAL]

Page 1 of 1

B

CT CORPORATION
A WaltersKluwer Company**Service of Process
Transmittal**10/16/2006
Log Number 511562337**TO:** Dale Matschullat
Newell Rubbermaid Inc.
10 B. Glenlake Parkway, Suite 600
Atlanta, GA, 30328**RE:** Process Served in Georgia**FOR:** NEWELL RUBBERMAID INC. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Andrew Shalaby and Sonia Dunn-Ruiz, Pltfs. vs. Newell Rubbermaid, Inc. the Home Depot, Inc., Dfs.
DOCUMENT(S) SERVED:	Attorney Letter, Civil Case Cover Sheet, Summons, Complaint
COURT/AGENCY:	Superior Court of Alameda County, CA Case # RG06292670
NATURE OF ACTION:	Product Liability Litigation - Breach of Warranty - Personal Injury / Wrongful Death / Property Damage / Negligence / Product: BernzOmatic brand MAPP Gas torch
ON WHOM PROCESS WAS SERVED:	Corporation Process Company, Marietta, GA
DATE AND HOUR OF SERVICE:	By Certified Mail on 10/16/2006 postmarked on 10/13/2006
APPEARANCE OR ANSWER DUE:	30 days
ATTORNEY(S) / SENDER(S):	Mark D. Epstein Alborg, Velluva & Epstein LLP 200 Pringle Avenue Suite 410 Walnut Creek, CA, 94596-7380 925-938-8860
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day, 790585572139
SIGNED:	Corporation Process Company
ADDRESS:	180 Cherokee St. NE Marietta, GA, 30060
TELEPHONE:	770-795-7600

Page 1 of 1 / BH

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

Sent By: AVE LLP;

925 939 9915 ;

Oct-10-08 1:59PM;

Page 2

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Newell Rubbermaid, Inc., a Delaware corporation, The Home Depot, Inc., a Delaware corporation, and Does 1-100

POR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**ENDORSED
FILED
ALAMEDA COUNTY**

OCT 10 2008

By

LAURA LUONG

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE):**

Andrew Shalaby, an individual, and Sonia Dunn-Ruiz, an individual

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.legalhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

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Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.legalhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Alameda County Superior Court
1225 Fallon Street
Oakland, CA 94612

CASE NUMBER:
(Número del Caso): RG06292670

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Mark D. Epstein
Alborg, Veiluva & Epstein LLP
200 Pringle Avenue, Suite 410
Walnut Creek, CA 94596

(925) 939-9880 (925) 939-9915

DATE:
(Fecha) OCT 10 2008

Clerk, by

LAURA LUONG

Deputy

(Secretario)

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **The Home Depot, Inc., a Delaware Corporation**

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.50 (minor)
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.80 (authorized person)
- ☐ other (specify):

4. ☐ by personal delivery on (date):

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 (Rev. January 1, 2004)

SUMMONS

Legal
Solutions
& Pals

Page 1 of 1
Code of Civil Procedure §§ 412.20, 405

20061031070



CORPORATION SERVICE COMPANY

Notice of Service of Process

Transmittal Number: 4835877
Date Processed: 10/13/2006

Primary Contact: Nancy Bunker
The Home Depot, Inc.
2455 Paces Ferry Rd., NW
Atlanta, GA 30339-4024

Copy of transmittal only sent to: Quinessa Malcolm

Entity: The Home Depot Supply, Inc.
Entity ID Number 2483833

Entity Served: The Home Depot, Inc.

Title of Action: Andrew Sahlaby vs. Newell Rubbermaid, Inc.

Document(s) Type: Summons/Complaint

Nature of Action: Personal Injury

Court: Alameda County Superior Court, California

Case Number: RG06292670

Jurisdiction Served: California

Date Served on CSC: 10/13/2006

Answer or Appearance Due: 30 Days

Originally Served On: CSC

How Served: Personal Service

Plaintiff's Attorney: Mark D. Epstein
925-939-9880

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

ST 16
by LITIGATION

0/18/06 09:39AM ONELE851 TIFFANY GRIFFIN - 105 ALBO 9259399915 Pg 3/3
 Sent By: AVE LLP; 925 939 9915 ; Oct-12-06 14PM; Page 2/2

OCT 30 2006

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, telephone number, and attorney State Bar number): Mark D. Epstein (SBN 168221) Alborg, Veiluva & Epstein LLP 200 Pringle Avenue, Suite 410 Walnut Creek, CA 94596 (925) 939-9880 ATTORNEY FOR (Name): Plaintiffs Andrew Shalaby and Sonia Dunn-Ruiz		ENDORSED Reserved for Clerk's File Stamp ALAMEDA COUNTY OCT 12 2006 CLERK OF THE SUPERIOR COURT BY DOROTHY DUCKETT, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA		
COURT ADDRESS 1225 Fallon Street Oakland, CA 94612		
PLAINTIFF Andrew Shalaby and Sonia Dunn-Ruiz		
DEFENDANT Newell Rubbermaid, Inc. et al.		
AMENDMENT TO COMPLAINT (Fictitious/Incorrect Name)		CASE NUMBER RG06292670

BY FAX

☒ **FICTITIOUS NAME (No order required)**

Upon filing the complaint in this case, the plaintiff, being ignorant of the true name of a defendant and having designated the defendant in the complaint by the fictitious name of: DOE No. 1

and having discovered the defendant's true name to be: RUBBERMAID INCORPORATED

amends the complaint by substituting the true name for the fictitious name wherever it appears in the complaint.

☐ **INCORRECT NAME (Order required)**

The plaintiff, having designated a defendant in the complaint by the incorrect name of:

and having discovered the true name of the defendant to be:

amends the complaint by inserting the true name for the incorrect name wherever it appears in the complaint.

DATE October 12, 2006	TYPE OR PRINT NAME MARK D. EPSTEIN	SIGNATURE 
--------------------------	---------------------------------------	---------------------------------------------------------------------------------------------------

ORDER

THE COURT ORDERS the amendment approved and filed.

Date:

☐ Judge ☐ Commissioner

FORM NO. AC-001 (New 4-00)

AMENDMENT TO COMPLAINT
 (Fictitious/Incorrect Name)

C.C.P. §§471.5, 472, 473, 474
 AL 001

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TI

OCT 30 2006

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Mark D. Epstein, 168221 ALBORG, VELLUVA & EPSTEIN 200 Pringle Avenue Suite 410 Walnut Creek, CA 94596 TELEPHONE NO.: (925) 939-9880 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of Alameda County 1225 Fallon St #209 Oakland, CA 94612		
PLAINTIFF/PETITIONER: Shalaby DEFENDANT/RESPONDENT: Newell Rubbermaid et al.	CASE NUMBER: RG06292670	BY FAX
PROOF OF SERVICE OF SUMMONS		Ret. No. or File No.: 900725

- At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
- I served copies of: Summons, Complaint, Amended Complaint

3. a. Party served: Rubbermaid, Inc.

b. Person Served: Margaret Wilson - Person authorized to accept service of process

4. Address where the party was served: 818 WEST SEVENTH STREET
LOS ANGELES, CA 90017

5. I served the party

a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) or (date): October 20, 2006 (2) at (time): 3:00 pm

6. The "Notice to the Person Served" (on the summons) was completed as follows:

c. on behalf of:

Doe no.1 Rubbermaid, Inc.

under: CCP 416.10 (corporation)

7. Person who served papers

- Name: Jimmy Lizama
- Address: One Legal, Inc. - 132-Marin
504 Redwood Blvd #223
Novato, CA 94947
415-491-0606
- Telephone number:
- The fee for service was: \$ 14.95
- I am:

- (3) registered California process server.
- (i) Employee or independent contractor.
- (ii) Registration No. 4553
- (iii) County LOS ANGELES

8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Date: October 24, 2006

Jimmy Lizama

(NAME OF PERSON WHO SERVED PAPERS)

(SIGNATURE)

Form Adopted for Mandatory Use
Judicial Council of California POS-010
(Rev. July 1, 2004)

Code of Civil Procedure, § 417.10

PROOF OF SERVICE OF SUMMONS

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11/08/08 14:56 FAX 4157050411

JENKINS GOODMAN & NEUMAN

002

ENDORSED
FILED
ALAMEDA COUNTY

NOV 8 - 2006

CLERK OF THE SUPERIOR COURT
By MARGARET J. DOWNIE
Deputy

1 JOSHUA S. GOODMAN - State Bar #116576
2 PAVAN L. ROSATI - State Bar #146171
3 JENKINS GOODMAN NEUMAN & HAMILTON LLP
4 417 Montgomery Street, 10th Floor
5 San Francisco, California 94104
6 Telephone: (415) 705-0400
7 Facsimile: (415) 705-0411
8
9 Attorneys for Defendant HOME DEPOT U.S.A., INC.
10 (erroneously sued herein as THE HOME DEPOT, INC.)

11
12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14
15 IN AND FOR THE COUNTY OF ALAMEDA

16 ANDREW SHALABY, an individual,
17 and SONIA DUNN-RUIZ, an
18 individual,

19 Plaintiffs,

20 vs.

21 NEWELL RUBBERMAID, INC., a
22 Delaware corporation, THE HOME
23 DEPOT, INC., a Delaware
24 corporation,

25 Defendants.

Case No. RG06292670

ANSWER OF DEFENDANT HOME
DEPOT, U.S.A., INC. TO PLAINTIFFS'
COMPLAINT

BY FAX

19 Defendant, HOME DEPOT U.S.A., INC. (erroneously sued herein as THE HOME
20 DEPOT, INC.), in answer to the unverified complaint of plaintiffs herein, denies each and
21 every, all and singular, the allegations of their unverified complaint, and denies that
22 plaintiffs have been injured or damaged in any of the sums mentioned in their complaint,
23 or in any sum, or at all, as the result of any act or omission of this answering defendant.

24 AS A FURTHER, SEPARATE AND AFFIRMATIVE DEFENSE, this answering
25 defendant alleges that plaintiffs were themselves careless and negligent in and about the
26 matters alleged in the complaint, and that this carelessness and negligence on plaintiffs'

Jenkins Goodman
Neuman & Hamilton
LLP
417 Montgomery St.
10th Floor
San Francisco, CA
94104
(415) 705-0400

-1-

ANSWER OF DEFENDANT HOME DEPOT U.S.A., INC. TO COMPLAINT

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own part contributed as a proximate cause to the happening of the incident and to the injuries, loss and damage complained of, and any recovery by plaintiffs should be reduced or eliminated based upon comparative fault.

AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE, this answering defendant alleges that the sole proximate cause of the injuries and damages, if any, allegedly suffered by the plaintiffs was the negligence and fault of persons or entities other than this answering defendant, for whose acts or omissions this answering defendant is not legally or otherwise responsible.

AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE, this answering defendant alleges that the complaint fails to state facts sufficient to constitute a cause of action against this answering defendant.

AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering defendant alleges that at all times and places mentioned in the complaint, plaintiffs failed to mitigate their damages. The damages claimed by plaintiffs could have been mitigated by due diligence on their part or by one acting under similar circumstances. Any recovery by plaintiffs should be reduced or eliminated due to their failure to mitigate their damages.

AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering defendant alleges that plaintiffs had full knowledge of all the risks, dangerousness and hazards, if any there were, and nevertheless voluntarily and with full appreciation of the amount of danger involved in their actions and the magnitude of risk involved, assumed the risk of damages to themselves.

AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering defendant alleges that its conduct was not the cause in fact or the proximate cause of any of the losses alleged by plaintiffs.

AS A SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE, this answering defendant is informed and believes, and thereupon alleges that if plaintiffs sustained

Jenkins Goodman
 Neuman & Hamilton
 LLP
 417 Montgomery St.
 10th Floor
 San Francisco, CA
 94104
 (415) 705-0400

1 injuries attributable to the use of any product manufactured by this defendant, which
2 allegations are expressly denied, the injuries were caused in whole or in part by the
3 unreasonable, unforeseeable and inappropriate purpose and/or improper use which was
4 made of the product.

5 AS AN EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE, this answering
6 defendant alleges that the damages complained of in the complaint were caused in whole
7 or in part by the misuse and abuse of the product.

8 AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering
9 defendant alleges that the plaintiffs' complaint is barred by the applicable statute of
10 limitations, contained in California Code of Civil Procedure, Section 340(3).

11 AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering
12 defendant is informed and believes, and thereupon alleges that plaintiffs were, at all
13 relevant times, a special employee of defendant, acting in the course and scope of that
14 special employment, and that this action is therefore barred by the exclusive remedy
15 provisions of the Workers' Compensation Act, as contained in California Labor Code
16 sections 3600, 3601, and 3602.

17 AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, this
18 answering defendant is informed and believes, and thereupon alleges that at all times
19 material herein, the plaintiffs were in the course and scope of their employment and that
20 plaintiffs and their employer were subject to the provisions of the Workers' Compensation
21 Act of the State of California; that certain sums have been paid to or on behalf of plaintiffs
22 herein under the applicable provisions of the Labor Code of the State of California; that
23 plaintiffs' employer and plaintiffs' co-employees were negligent and careless and that such
24 negligence and carelessness proximately contributed to and caused the injuries of
25 plaintiffs, if any; and that under the doctrine of *Witt v. Jackson* such negligence and
26 carelessness should reduce or eliminate any lien claim or claim in a Complaint-In-

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Neuman & Hamilton
LLP
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10th Floor
San Francisco, CA
94104
(415) 705-0400

1 Intervention which may be made for reimbursement of Workers' Compensation benefits
2 paid to or on behalf of plaintiffs.

3 AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering
4 defendant is informed and believes, and thereupon alleges that plaintiffs' complaint, and
5 each of cause of action thereof, fails to state a cause of action in that plaintiffs failed to
6 give timely and proper notice of breach of warranty.

7 AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, this
8 answering defendant is informed and believes, and thereupon alleges that the injuries and
9 damages sustained by plaintiffs, if any, were solely and legally caused by the modification,
10 alternation or change of the product referred to in the complaint and said modification,
11 alteration or change was performed by persons or entities other than this answering
12 defendant and without defendant's knowledge or consent.

13 AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, this
14 answering defendant is informed and believes, and thereupon alleges that defendant
15 presently has insufficient knowledge or information on which to form a belief as to
16 whether it may have additional, as yet unstated, defenses available. Defendant reserves
17 herein the right to assert additional defenses in the event discovery indicates that they
18 would be appropriate.

19 AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, this answering
20 defendant is informed and believes, and thereupon alleges that defendant may not be held
21 liable for damages in this case pursuant to an absolute "litigation privilege" set forth in
22 California Civil Code section 47(b).

23 AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, this
24 answering defendant is informed and believes, and thereupon alleges that defendant's
25 conduct was lawful under the "merchant's privilege", as set forth in California Penal Code
26 section 490.5(f)(1).

1 WHEREFORE, defendant prays:

- 2 1. Plaintiffs take nothing against it by their complaint;
3 2. Defendant have judgment for its costs of suit; and
4 3. Such other and further relief as the court deems just and proper.

5 DATED: November 8, 2006

JENKINS GOODMAN NEUMAN &
HAMILTON LLP

6
7 By: 

JOSHUA S. GOODMAN
PAVANI L. ROSATI
Attorneys for Defendant
HOME DEPOT U.S.A., INC.

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25 Jenkins Goodman
Neuman & Hamilton
LLP
417 Montgomery St.
10th Floor
San Francisco, CA
94104
(415) 705-0400
26

PROOF OF SERVICE

CASE NAME: *Shalaby v. Home Depot, et al.*

CASE NUMBER: RG06292670

DATE OF SERVICE: November 8, 2006

DESCRIPTION OF DOCUMENTS SERVED:

**ANSWER OF DEFENDANT HOME DEPOT U.S.A., INC. TO
PLAINTIFFS' COMPLAINT**

SERVED ON THE FOLLOWING:

Mark D. Epstein, Esq.
Alborn, Veiluva & EpsteinLLP
200 Pringle Avenue, Suite 410
Walnut Creek, CA 94596
925.939.9915 fax

J. Phillip Moorhead, Esq.
Keller, Price & Moorhead
229 Avenue I, Second Floor
Redondo Beach, CA 90277-5600
310.540.8480 fax

I am over the age of 18 years and not a party to or interested in the above-named case. I am an employee of Jenkins Goodman Neuman & Hamilton LLP, and my business address is 417 Montgomery Street, 10th Floor, San Francisco, CA 94104. On the date stated above, I served a true copy of the document(s) described above, by mail, by placing said document(s) in an envelope, addressed as shown above for collection and mailing on the date shown above following the ordinary business practices of Jenkins Goodman Neuman & Hamilton LLP. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, said document(s) would be deposited with the United States Postal Service at a post box in San Francisco, California on the same day (at approximately 5:00 P.M.) with postage thereon fully prepaid for first class mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the date stated above.


Nikki Sands

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11/09/06 13:18 FAX 4157050411

JENKINS GOODMAN & NEUMAN

040

11/09/06 11:05 FAX 4157050411

JENKINS GOODMAN & NEUMAN

002/007

1 JOSHUA S. GOODMAN - State Bar #116576
PAVAN L. ROSATI - State Bar #146171
2 JENKINS GOODMAN NEUMAN & HAMILTON LLP
417 Montgomery Street, 10th Floor
3 San Francisco, California 94104
Telephone: (415) 705-0400
4 Facsimile: (415) 705-0411

ENDORSED
FILED
ALAMEDA COUNTY

NOV - 9 2006

CLERK OF THE SUPERIOR COURT

By

Deputy

5 Attorneys for Defendants NEWELL RUBBERMAID, INC.
and RUBBERMAID, INC.

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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF ALAMEDA

10
11 ANDREW SHALABY, an individual,
and SONIA DUNN-RUIZ, an
12 individual,

13 Plaintiffs,

14 vs.

15 NEWELL RUBBERMAID, INC., a
Delaware corporation, THE HOME
16 DEPOT, INC., a Delaware
corporation,

17 Defendants.
18

Case No. RG06292670

ANSWER OF DEFENDANTS NEWELL
RUBBERMAID, INC. and
ROBBERMAID, INC. TO PLAINTIFFS'
COMPLAINT

19
20 Defendants, NEWELL RUBBERMAID, INC. and ROBBERMAID, INC., in
21 answer to the unverified complaint of plaintiffs herein, denies each and every, all and
22 singular, the allegations of their unverified complaint, and denies that plaintiffs have been
23 injured or damaged in any of the sums mentioned in their complaint, or in any sum, or at
24 all, as the result of any act or omission of these answering defendants.

25 AS A FURTHER, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
26 defendants allege that plaintiffs were themselves careless and negligent in and about the

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ANSWER OF DEFENDANT HOME DEPOT U.S.A., INC. TO COMPLAINT

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BY FAX

1 matters alleged in the complaint, and that this carelessness and negligence on plaintiffs'
2 own part contributed as a proximate cause to the happening of the incident and to the
3 injuries, loss and damage complained of, and any recovery by plaintiffs should be reduced
4 or eliminated based upon comparative fault.

5 AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
6 defendants allege that the sole proximate cause of the injuries and damages, if any,
7 allegedly suffered by the plaintiffs was the negligence and fault of persons or entities other
8 than these answering defendants, for whose acts or omissions these answering defendants
9 is not legally or otherwise responsible.

10 AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
11 defendants allege that the complaint fails to state facts sufficient to constitute a cause of
12 action against these answering defendants.

13 AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
14 defendants allege that at all times and places mentioned in the complaint, plaintiffs failed
15 to mitigate their damages. The damages claimed by plaintiffs could have been mitigated
16 by due diligence on their part or by one acting under similar circumstances. Any recovery
17 by plaintiffs should be reduced or eliminated due to their failure to mitigate their damages.

18 AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
19 defendants allege that plaintiffs had full knowledge of all the risks, dangerousness and
20 hazards, if any there were, and nevertheless voluntarily and with full appreciation of the
21 amount of danger involved in their actions and the magnitude of risk involved, assumed
22 the risk of damages to themselves.

23 AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
24 defendants allege that its conduct was not the cause in fact or the proximate cause of any
25 of the losses alleged by plaintiffs.

26 AS A SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE, these answering

1 defendants are informed and believe, and thereupon alleges that if plaintiffs sustained
2 injuries attributable to the use of any product manufactured by this defendant, which
3 allegations are expressly denied, the injuries were caused in whole or in part by the
4 unreasonable, unforeseeable and inappropriate purpose and/or improper use which was
5 made of the product.

6 AS AN EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE, these answering
7 defendants allege that the damages complained of in the complaint were caused in whole
8 or in part by the misuse and abuse of the product.

9 AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
10 defendants allege that the plaintiffs' complaint is barred by the applicable statute of
11 limitations, contained in California Code of Civil Procedure, Section 340(3).

12 AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
13 defendants are informed and believe, and thereupon allege that plaintiffs were, at all
14 relevant times, a special employee of defendant, acting in the course and scope of that
15 special employment, and that this action is therefore barred by the exclusive remedy
16 provisions of the Workers' Compensation Act, as contained in California Labor Code
17 sections 3600, 3601, and 3602.

18 AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, these
19 answering defendants are informed and believe, and thereupon allege that at all times
20 material herein, the plaintiffs were in the course and scope of their employment and that
21 plaintiffs and their employer were subject to the provisions of the Workers' Compensation
22 Act of the State of California; that certain sums have been paid to or on behalf of plaintiffs
23 herein under the applicable provisions of the Labor Code of the State of California; that
24 plaintiffs' employer and plaintiffs' co-employees were negligent and careless and that such
25 negligence and carelessness proximately contributed to and caused the injuries of
26 plaintiffs, if any; and that under the doctrine of *Witt v. Jackson* such negligence and

1 carelessness should reduce or eliminate any lien claim or claim in a Complaint-In-
2 Intervention which may be made for reimbursement of Workers' Compensation benefits
3 paid to or on behalf of plaintiffs.

4 AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE, these answering
5 defendants are informed and believe, and thereupon allege that plaintiffs' complaint, and
6 each of cause of action thereof, fails to state a cause of action in that plaintiffs failed to
7 give timely and proper notice of breach of warranty.

8 AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, these
9 answering defendants are informed and believe, and thereupon allege that the injuries and
10 damages sustained by plaintiffs, if any, were solely and legally caused by the modification,
11 alternation or change of the product referred to in the complaint and said modification,
12 alteration or change was performed by persons or entities other than these answering
13 defendants and without defendants' knowledge or consent.

14 AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, these
15 answering defendants are informed and believe, and thereupon alleges that defendants
16 presently have insufficient knowledge or information on which to form a belief as to
17 whether it may have additional, as yet unstated, defenses available. Defendants reserve
18 herein the right to assert additional defenses in the event discovery indicates that they
19 would be appropriate.

20 AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, these
21 answering defendants are informed and believe, and thereupon allege that defendant may
22 not be held liable for damages in this case pursuant to an absolute "litigation privilege" set
23 forth in California Civil Code section 47(b).

24 AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, these
25 answering defendant are informed and believe, and thereupon allege that defendants'
26 conduct was lawful under the "merchant's privilege", as set forth in California Penal Code

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1 section 490.5(f)(1).

2 WHEREFORE, defendants pray:

- 3 1. Plaintiffs take nothing against it by their complaint;
4 2. Defendants have judgment for their costs of suit; and
5 3. Such other and further relief as the court deems just and proper.

6 DATED: November 9, 2006

JENKINS GOODMAN NEUMAN &
HAMILTON LLP

7
8
9 By:  for

JOSHUA S. GOODMAN
PAVAN L. ROSATI
Attorneys for Defendant NEWELL
RUBBERMAID, INC. and
RUBBERMAID, INC.

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12 f:\docs\jsg\shalaby v. home depot\pleadings\answer.doc

PROOF OF SERVICE

CASE NAME: *Shalaby v. Home Depot, et al.*

CASE NUMBER: RG06292670

DATE OF SERVICE: November 9, 2006

DESCRIPTION OF DOCUMENTS SERVED:

**ANSWER OF DEFENDANTS NEWELL RUBBERMAID, INC. and
RUBBERMAID, INC. TO PLAINTIFFS' COMPLAINT**


SERVED ON THE FOLLOWING:

Mark D. Epstein, Esq.
Alborn, Veiluva & EpsteinLLP
200 Pringle Avenue, Suite 410
Walnut Creek, CA 94596
925.939.9915 fax

J. Phillip Moorhead, Esq.
Keller, Price & Moorhead
229 Avenue I, Second Floor
Redondo Beach, CA 90277-5600
310.540.8480 fax

I am over the age of 18 years and not a party to or interested in the above-named case. I am an employee of Jenkins Goodman Neuman & Hamilton LLP, and my business address is 417 Montgomery Street, 10th Floor, San Francisco, CA 94104. On the date stated above, I served a true copy of the document(s) described above, by mail, by placing said document(s) in an envelope, addressed as shown above for collection and mailing on the date shown above following the ordinary business practices of Jenkins Goodman Neuman & Hamilton LLP. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, said document(s) would be deposited with the United States Postal Service at a post box in San Francisco, California on the same day (at approximately 5:00 P.M.) with postage thereon fully prepaid for first class mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the date stated above.


Nikki Sands

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-1-

PROOF OF SERVICE

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RECEIPT FOR PAYMENT
UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF
CALIFORNIA

SAN FRANCISCO, CA
3392282

RECEIVED FROM:
ONE LEGAL, INC
SUITE 223
504 REDWOOD BLVD
NOVATO, CA 94947

Case Number:
4:06CV07026-CM

F/U/B/O:
Party ID:

Tender Type:	CHECK
07-086400	\$100.00
Civil Filing-086400	

Remarks:

07-086900	\$60.00
Civil Filing-086900	

Remarks:

07-510000	\$190.00
Civil Filing-510000	

Remarks:3075407

Subtotal:	\$350.00
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Receipt Total:	\$350.00
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* Checks and drafts are accepted
subject to collections and full
credit will only be given when
the check or draft has been
accepted by the financial
institution on which it was drawn.

Date: 11/9/06

Clerk: HA

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